

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

-v-

ANTHONY ELLISON,

Defendant.

23 Civ. 10080 (PAE)
18 Cr. 834-9 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

On April 2, 2024, the Court issued a decision denying defendant Anthony Ellison's petition to vacate his sentence pursuant to 28 U.S.C. § 2255. 23 Civ. 10080, Dkt. 5; 18 Cr. 834, Dkt. 683. The Court has now received a letter-motion from Ellison seeking a certificate of appealability of the April 2, 2024 decision. 18 Cr. 834, Dkt. 684. The Court errantly neglected to address that point in its April 2 decision.

Under 28 U.S.C. § 2253, an appeal may not be taken to the Court of Appeals from a final order in a proceeding under section 2255 unless a certificate of appealability is issued. A certificate of appealability may issue "only if the applicant has made a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). For the reasons set forth in this Court's decision denying Ellison's petition, Ellison has not made such a "substantial showing." Therefore, the Court declines to issue a certificate of appealability and certifies that any appeal from the April 2 decision would not be taken in good faith; therefore, *in forma pauperis* status is denied for the purpose of an appeal. *Coppedge v. United States*, 369 U.S. 438, 445 (1962).

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: April 15, 2024
New York, New York